

116TH CONGRESS
2D SESSION

H. R. 8639

To authorize the Secretary of Health and Human Services to award grants to States and political subdivisions of States to hire, employ, train, and dispatch mental health professionals to respond in lieu of law enforcement officers in emergencies involving one or more persons with a mental illness or an intellectual or developmental disability, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 20, 2020

Ms. PORTER (for herself, Mr. CÁRDENAS, Ms. PRESSLEY, Ms. SCANLON, Ms. LEE of California, Mrs. NAPOLITANO, Ms. CLARK of Massachusetts, Mr. KHANNA, Mr. GRIJALVA, Mr. POCAN, Mr. TRONE, Mr. CARSON of Indiana, Ms. NORTON, Ms. JUDY CHU of California, Mr. WELCH, Ms. MOORE, Mr. MORELLE, Ms. MATSUI, Ms. WILD, Ms. HAALAND, Mrs. BEATTY, Mrs. CAROLYN B. MALONEY of New York, Mr. HASTINGS, Mr. RASKIN, Mr. AGUILAR, Ms. JAYAPAL, Ms. WASSERMAN SCHULTZ, Ms. SCHAKOWSKY, and Ms. ROYBAL-ALLARD) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To authorize the Secretary of Health and Human Services to award grants to States and political subdivisions of States to hire, employ, train, and dispatch mental health professionals to respond in lieu of law enforcement officers in emergencies involving one or more persons with a mental illness or an intellectual or developmental disability, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Mental Health Justice
5 Act of 2020”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Needless institutionalization (including in
9 psychiatric hospitals) of people with disabilities is
10 generally a violation of the Americans with Disabil-
11 ities Act of 1990 (42 U.S.C. 12101 et seq.), and the
12 failure to provide sufficient community-based serv-
13 ices (such as supported housing, assertive commu-
14 nity treatment, mobile crisis, peer support, and sup-
15 ported employment) has resulted in needless institu-
16 tionalization as well as incarceration of persons with
17 mental illness or an intellectual or developmental
18 disability.

19 (2) In the landmark 1999 Supreme Court case
20 Olmstead v. L.C., the Supreme Court ruled that the
21 “unjustified institutional isolation of persons with
22 disabilities is a form of discrimination” prohibited by
23 the Americans with Disabilities Act of 1990 (42
24 U.S.C. 12101 et seq.).

1 (3) Regulations promulgated by the Attorney
2 General in 1991 affirm that title II of the Ameri-
3 cans with Disabilities Act of 1990 (42 U.S.C. 12131
4 et seq.) requires public entities to “administer serv-
5 ices, programs, and activities in the most integrated
6 setting appropriate to the needs of qualified individ-
7 uals with disabilities” (28 C.F.R. 35.130(d)). The
8 regulation defines “the most integrated setting” as
9 one that “enables individuals with disabilities to
10 interact with nondisabled persons to the fullest ex-
11 tent possible” (28 C.F.R. pt. 35, App. B).

12 (4) Yet today, persons with a mental illness or
13 an intellectual or developmental disability are more
14 likely to be incarcerated and to be subject to exces-
15 sive use of force by law enforcement officers:

16 (A) One out of every four of the deaths
17 caused by law enforcement officers is a person
18 with mental illness.

19 (B) Persons with a mental illness or an in-
20 tellectual or developmental disability are often
21 charged with minor, nonviolent offenses. For
22 many of these persons, arrest and incarceration
23 could have been avoided if they had access to
24 intensive community-based services and stable
25 housing.

1 (5) Many of the police encounters that lead to
2 the incarceration (and in too many cases, death) of
3 people with mental illness or an intellectual or devel-
4 opmental disability could be avoided by having in
5 place systems that ensure that calls to 911 or to law
6 enforcement result in dispatch of mental health pro-
7 fessionals, peer support workers, or others rather
8 than law enforcement officers.

9 (6) Many people who are incarcerated would be
10 better served in community services. If there were
11 sufficient community services, and persons with
12 mental illness or an intellectual or developmental
13 disability were connected to those services rather
14 than being arrested, thousands of people with men-
15 tal illness or an intellectual or developmental dis-
16 ability would avoid needless admissions to hospitals
17 or jails. Further, jails and hospitals would experi-
18 ence less crowding.

19 **SEC. 3. GRANTS FOR MENTAL HEALTH PROFESSIONALS TO**
20 **ACT AS FIRST RESPONDERS.**

21 (a) IN GENERAL.—The Secretary of Health and
22 Human Services (in this section referred to as the “Sec-
23 retary”), acting through the Assistant Secretary for Men-
24 tal Health and Substance Use and in consultation with
25 the Assistant Attorney General for the Civil Rights Divi-

1 sion of the Department of Justice (in this section referred
2 to as the “Assistant Attorney General”), shall award
3 grants to States and political subdivisions of States—

4 (1) to hire, employ, train, and dispatch mental
5 health professionals to respond in lieu of law en-
6 forcement officers in emergencies in which—

7 (A) an individual calling 911 or another
8 emergency hotline states that a person—

9 (i) is in a mental health crisis; or
10 (ii) may have a mental illness or an
11 intellectual or developmental disability;

12 (B) a law enforcement officer or other first
13 responder identifies a person as having (or pos-
14 sibly having) a mental illness or an intellectual
15 or developmental disability; or

16 (C) a law enforcement officer or other first
17 responder identifies a person as being (or pos-
18 sibly being) under the influence of a legal or il-
19 legal substance;

20 (2) to include in the training for mental health
21 professionals pursuant to paragraph (1) training in
22 the principles of de-escalation and anti-racism;

23 (3) to ensure that such mental health profes-
24 sionals link persons described in subparagraph (A),

1 (B), or (C) of paragraph (1) with community-based
2 services where appropriate; and

3 (4) to train the staff of dispatch centers regard-
4 ing the proper handling of a report of an emergency
5 described in paragraph (1).

6 (b) DELEGATION.—The Secretary shall delegate re-
7 sponsibility for carrying out the Secretary's responsibil-
8 ties under this section and section 4 to the Director of
9 the Center for Mental Health Services of the Substance
10 Abuse and Mental Health Services Administration.

11 (c) ADDITIONAL AWARDS.—The Secretary shall
12 make an additional award of funds under this section each
13 fiscal year to grantees that demonstrate that their pro-
14 grams under this section resulted in—

15 (1) a notable reduction in the incarceration and
16 death of persons with mental illness or an intellec-
17 tual or developmental disability; or

18 (2) a notable reduction in the use of force by
19 police and a notable increase in referrals of persons
20 with a mental illness or intellectual disability to com-
21 munity-based, voluntary support services (other than
22 institutionalization carceral support services).

23 (d) PRIORITY.—In awarding grants under this sec-
24 tion, the Secretary shall give priority to States and polit-
25 ical subdivisions of States that—

1 (1) have high rates of arrests and incarceration
2 of persons with a mental illness or an intellectual or
3 developmental disability; or

4 (2) commit to increasing resources for mental
5 health and community-based support services or so-
6 lutions for such persons.

7 (e) REPORTING.—

8 (1) BY GRANTEES.—A recipient of a grant
9 under this section shall submit to the Secretary—

10 (A) a quarterly report on—

11 (i) the number and percentage of
12 emergencies where mental health profes-
13 sionals were dispatched in lieu of law en-
14 forcement officers pursuant to assistance
15 under this section;

16 (ii) such other matters as the Sec-
17 retary may require for determining whether
18 the recipient should receive an addi-
19 tional award under subsection (e); and

20 (iii) any increase or decrease, com-
21 pared to any previous quarter, in incarcera-
22 tion or institutionalization as a result of
23 dispatching mental health professionals
24 pursuant to assistance under this section,
25 disaggregated to include data specific to

1 persons with intellectual and developmental
2 disabilities and mental illnesses where
3 available, so as—

4 (I) to provide a critical baseline
5 analysis; and

6 (II) to ensure that mental health
7 practitioners are not simply funneling
8 individuals into other institutionalized
9 settings; and

10 (B) a final report on the use of such grant.

11 (2) BY SECRETARY.—Not later than 1 year
12 after awarding the first grant under this section,
13 and annually thereafter, the Secretary shall submit
14 to the Congress a report on the grant program
15 under this section.

16 (f) REVOCATION OF GRANT.—If the Secretary finds,
17 based on reporting under subsection (e) or other informa-
18 tion, that activities funded through a grant under this sec-
19 tion are leading to a significant increase in incarceration
20 or institutionalization—

21 (1) the Secretary shall revoke the grant; and

22 (2) the grantee shall repay to the Federal Gov-
23 ernment any amounts that the grantee—

24 (A) received through the grant; and

25 (B) has not obligated or expended.

1 (g) FUNDING.—To carry out this section, there are
2 authorized to be appropriated such sums as may be nec-
3 essary for fiscal year 2021 and each subsequent fiscal
4 year.

5 **SEC. 4. TECHNICAL ASSISTANCE FOR POLITICAL SUBDIVI-**
6 **SIONS OF A STATE.**

7 The Secretary of Health and Human Services, acting
8 through the Assistant Secretary for Mental Health and
9 Substance Use and in consultation with the Assistant At-
10 torney General for the Civil Rights Division of the Depart-
11 ment of Justice, shall provide technical assistance to
12 grantees under section 3 (or other Federal law), other po-
13 litical subdivisions of States, and States to hire, employ,
14 train, and dispatch mental health professionals to respond
15 in lieu of law enforcement officers, as described in section
16 3.

17 **SEC. 5. STUDY.**

18 (a) IN GENERAL.—The Secretary of Health and
19 Human Services and the Assistant Attorney General for
20 the Civil Rights Division of the Department of Justice
21 shall conduct a study of the effectiveness of programs and
22 activities under sections 3 and 4.

23 (b) QUALITATIVE AND LONGITUDINAL EXAMINA-
24 TION.—The study under subsection (a) shall include a
25 qualitative and longitudinal study of—

1 (1) the number of persons diverted from ar-
2 rests; and

3 (2) short- and long-term outcomes for those
4 persons, including reduced recidivism, reduced
5 incidences of use of force, and reduced utilization of
6 resources.

7 (c) COMPLETION; REPORT.—Not later than 3 years
8 after the date of enactment of this Act, the Secretary of
9 Health and Human Services and the Assistant Attorney
10 General for the Civil Rights Division of the Department
11 of Justice shall—

12 (1) complete the study under subsection (a);
13 (2) submit a report to the Congress on the re-
14 sults of such study; and
15 (3) publish such report.

○